

(j) Amendments or supplements to the pleadings described in this section will not be allowed without showing good cause through a motion and supporting documents.

(k) *Burden of proof.* Except as used in subpart F of this part,

(1) The burden of proof is on the complainant to show noncompliance with an Act or any regulation, order, agreement or document of conveyance issued under the authority of an Act.

(2) Except as otherwise provided by statute or rule, the proponent of a motion, request, or order has the burden of proof.

(3) A party who has asserted an affirmative defense has the burden of proving the affirmative defense.

(l) Except for good cause shown through motion and supporting documents, discovery is not permitted except as provided in §§ 16.213 and 16.215.

[Doc. No. 27783, 61 FR 54004, Oct. 16, 1996, as amended at Amdt. 16-1, 78 FR 56143, Sept. 12, 2013]

#### § 16.25 Dismissals.

(a) Within 20 days after the receipt of the complaint, unless a motion has been filed under § 16.26, the Director will dismiss a complaint, or any claim made in a complaint, with prejudice if:

(1) It appears on its face to be outside the jurisdiction of the Administrator under the Acts listed in § 16.1;

(2) On its face it does not state a claim that warrants an investigation or further action by the FAA; or

(3) The complainant lacks standing to file a complaint under §§ 16.3 and 16.23.

(b) A dismissal under this section will include the reasons for the dismissal.

[Amdt. 16-1, 78 FR 56144, Sept. 12, 2013]

#### § 16.26 Motions to dismiss and motions for summary judgment.

(a) In lieu of an answer, the respondent may file a motion to dismiss the complaint or a motion for summary judgment on the complaint. The respondent may move for dismissal of the entire complaint or move for dismissal of particular issues from adjudication. The motion must be filed within 20 days after the date of service of the FAA notification of docketing.

(b) *Motions to dismiss.* (1) A motion to dismiss shall be accompanied by a concise statement of the reasons for seeking dismissal. The respondent must show that the complaint should be dismissed, with prejudice, if:

(i) It appears on its face to be outside the jurisdiction of the Administrator under the Acts listed in § 16.1;

(ii) On its face it does not state a claim that warrants an investigation or further action by the FAA; or

(iii) The complainant lacks standing to file a complaint under §§ 16.3 and 16.23.

(2) A motion to dismiss may seek dismissal of the entire complaint or the dismissal of specified claims in the complaint. A motion to dismiss shall be accompanied by a supporting memorandum of points and authorities.

(3) A complainant may file an answer to the motion to dismiss within 10 days of the date the motion is served on the complainant, or within any other period set by the Director. The answer shall be accompanied by a concise statement of reasons for opposing dismissal, and may be accompanied by affidavits and other documentary evidence in support of that contention.

(4) Within 30 days of the date an answer to a motion to dismiss is due under this section, the Director may issue an order disposing of the motion. If the Director denies the motion to dismiss in whole or in part, or grants the motion in part, then within 20 days of when the order is served on the respondent, the respondent shall file an answer to the complaint.

(5) If the Director does not act on the motion to dismiss within 30 days of the date an answer to a motion is due under this section, the respondent shall file an answer to the complaint within the next 20 days.

(c) *Motions for summary judgment.* (1) A motion for summary judgment may be based upon the ground that there is no genuine issue of material fact for adjudication and that the complaint, when viewed in the light most favorable to the complainant, should be summarily adjudicated in favor of the respondent as a matter of law. A motion for summary judgment may seek dismissal of the entire complaint or